IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR. JUSTICE J.CHELAMESWAR
And
THE HON'BLE MR. JUSTICE D.APPA RAO

WRIT PETITION NO. 23789 OF 2006

Between:

M/s. Sri Lakshmi Sridevi Raw & Boiled Rice Mill,
Navalok Gardens, Ashok Nagar, Nellore
Rep. by its Proprietor Sri Vemuru Chenchaiah

Petitioner

AND

The Deputy Commercial Tax Officer-I,
Office of the Commercial Tax officer No.III,
Nellore and and others

Respondents

Dated: 23rd November, 2006

ORAL ORDER:
(Per the Hon'ble Sri Justice J.Chelameswar)

The petitioner is a proprietary concern and a registered dealer on the rolls of the second respondent under Andhra Pradesh General Sales Tax Act and

carrying on business as a rice miller. The liability of the petitioner for the assessment years 1999-2000 and 2000-2001, to pay Rural Development Cess under the A.P. Rural Development Act, 1996, is the subject matter of dispute, pending adjudication before the Sales Tax Appellate Tribunal. (Further details of the case, may not be necessary for the present purpose) It appears, the petitioner filed an application before the third respondent seeking stay of the recovery of the disputed amount of cess. The third respondent by his order dated 1.11.2006 rejected the said application. In the meanwhile, proceedings were initiated for sale of immovable property by the first respondent under Sec. 27 of the R.R. Act dated 31.7.2006. Apart from that, garnishee proceedings were issued to the Manager, Andhra Bank, Stone Housepet Branch, Nellore and R.R. Street Branch, Nellore, calling upon the said banks to pay the amounts to the tune of Rs.14,00,299.00. Hence, the present writ petition with the following prayer:

> "…For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble High Court be pleased to issue an appropriate writ, order or Direction more particularly in the nature of Mandamus declaring that the Stay Rejection Order passed by the third respondent in CCT's Ref. No. LV(1)/1409/2006 dt. 1.11.2006 relating to the year 2000-2001 APRD Cess is illegal and consequently to grant stay of collection of the forfeiture of R.D. Cess of

Rs.7,42,500.00 and further to grant stay of collection of the R.D. Cess of Rs.4,81,800.00 relating to the year 1999-2000 APRD Cess after holding that the Notice of Attachment (in Form 5) of the Rice Mill with land of the petitioner issued by the first respondent under Sec. 27 of the R.R. Act in RC. No. 128/A/05/B2 dt. 31.7.2006 published in the Nellore District Gazette on 29.8.2006 and the Garnishee notice in Rc. No. 128(A)/2005/B2 dt.3.10.2006 issued by the Second Respondent to the Fourth and Fifth respondents are arbitrary and illegal and pass such other order or orders as may be deemed fit and proper in the circumstances of the case and in the interests of justice…"

Heard the learned Government Pleader.

In the circumstances, we are of the opinion that this writ petition can be dispose of at this stage directing the respondents not to proceed with the sale of immovable property pursuant to the notice of the first respondent dated 31.7.2006 and also to withdraw the Garnishee proceedings on condition of the petitioner depositing 50% of the amount mentioned in the garnishee notice, within a period of six weeks from today. The amounts, if any, paid already towards the disputed amount of cess, shall be given credit to, while computing the above-mentioned amount of 50%.

The writ petition is accordingly disposed of. No order

as to costs.

_____

J.Chelameswar, J.

_____

D.Appa Rao, J.

November 23, 2006

Furnish copy in two days

//BO//

MAS.